

facts that DOJ has advised would prejudice the contemplated legal proceedings. If there is not such evidence, the suspension shall be terminated immediately without prejudice.

(2) A transcribed record of any additional proceedings shall be prepared and made available at cost to the respondent, upon request, unless the respondent and the agency, by mutual agreement, waive the requirement for a transcript.

[54 FR 4722 and 4731, Jan. 30, 1989, as amended at 54 FR 4732, Jan. 30, 1989]

§ 3017.413 Suspending official's decision.

The suspending official may modify or terminate the suspension (for example, see § 3017.320(c) for reasons for reducing the period or scope of debarment) or may leave it in force. However, a decision to modify or terminate the suspension shall be without prejudice to the subsequent imposition of suspension by any other agency or debarment by any agency. The decision shall be rendered in accordance with the following provisions:

(a) *No additional proceedings necessary.* In actions: based on an indictment, conviction, or civil judgment; in which there is no genuine dispute over material facts; or in which additional proceedings to determine disputed material facts have been denied on the basis of Department of Justice advice, the suspending official shall make a decision on the basis of all the information in the administrative record, including any submission made by the respondent. The decision shall be made within 45 days after receipt of any information and argument submitted by the respondent, unless the suspending official extends this period for good cause.

(1) In USDA, the suspending official shall terminate the suspension immediately when additional proceedings to determine disputed facts have been denied on the basis of DOJ advice. The agency, however, reserves the right to proceed with the suspension when DOJ completes its legal proceedings or is satisfied that the suspension no longer will prejudice DOJ's proceedings.

(2) In USDA suspension actions, where the respondent(s) fail(s) to timely provide any submission in opposi-

tion, the action will be considered decided.

(b) *Additional proceedings necessary.*

(1) In actions in which additional proceedings are necessary to determine disputed material facts, written findings of fact shall be prepared. The suspending official shall base the decision on the facts as found, together with any information and argument submitted by the respondent and any other information in the administrative record.

(2) The suspending official may refer matters involving disputed material facts to another official for findings of fact. The suspending official may reject any such findings, in whole or in part, only after specifically determining them to be arbitrary or capricious or clearly erroneous.

(c) *Notice of suspending official's decision.* Prompt written notice of the suspending official's decision shall be sent to the respondent.

(1) In USDA, the notice to the respondent shall be signed by the suspending official and transmitted by certified mail, return receipt requested. OGC will be consulted on all proposed suspension actions prior to the notice being sent to the respondent. The notice shall include the following:

(i) Reference to the previously issued notice of suspension;

(ii) The reason(s) for the action taken in this notice.

(iii) The effective date(s) of the suspension taken in this notice and, where appropriate, the period of the suspension;

(iv) Advice that the suspension is effective for covered transactions throughout the executive branch of the Federal Government unless an agency head or a designee authorized by an agency head makes a determination referred to in § 3017.215.

(b) [Reserved]

[54 FR 4722 and 4731, Jan. 30, 1989, as amended at 54 FR 4732, Jan. 30, 1989]

§ 3017.415 Period of suspension.

(a) Suspension shall be for a temporary period pending the completion of an investigation or ensuring legal, debarment, or Program Fraud Civil

§ 3017.420

Remedies Act proceedings, unless terminated sooner by the suspending official or as provided in paragraph (b) of this section.

(b) If legal or administrative proceedings are not initiated within 12 months after the date of the suspension notice, the suspension shall be terminated unless an Assistant Attorney General or United States Attorney requests its extension in writing, in which case it may be extended for an additional six months. In no event may a suspension extend beyond 18 months, unless such proceedings have been initiated within that period.

(c) The suspending official shall notify the Department of Justice of an impending termination of a suspension, at least 30 days before the 12-month period expires, to give that Department an opportunity to request an extension.

(1) The suspending official shall notify OGC which will notify DOJ of the impending termination of a suspension.

(2) [Reserved]

[54 FR 4722 and 4731, Jan. 30, 1989, as amended at 54 FR 4733, Jan. 30, 1989]

§ 3017.420 Scope of suspension.

The scope of a suspension is the same as the scope of a debarment (see § 3017.325), except that the procedures of §§ 3017.410 through 3017.413 shall be used in imposing a suspension.

Subpart E—Responsibilities of GSA, Agency and Participants

§ 3017.500 GSA responsibilities.

(a) In accordance with the OMB guidelines, GSA shall compile, maintain, and distribute a list of all persons who have been debarred, suspended, or voluntarily excluded by agencies under Executive Order 12549 and these regulations, and those who have been determined to be ineligible.

(b) At a minimum, this list shall indicate:

(1) The names and addresses of all debarred, suspended, ineligible, and voluntarily excluded persons, in alphabetical order, with cross-references when more than one name is involved in a single action;

(2) The type of action;

(3) The cause for the action;

(4) The scope of the action;

(5) Any termination date for each listing; and

(6) The agency and name and telephone number of the agency point of contact for the action.

§ 3017.505 USDA responsibilities.

(a) The agency shall provide GSA with current information concerning debarments, suspensions, determinations of ineligibility, and voluntary exclusions it has taken. Until February 18, 1989, the agency shall also provide GSA and OMB with information concerning all transactions in which USDA has granted exceptions under § 3017.215 permitting participation by debarred, suspended, or voluntarily excluded persons.

(b) Unless an alternative schedule is agreed to by GSA, the agency shall advise GSA of the information set forth in § 3017.500(b) and of the exceptions granted under § 3017.215 within five working days after taking such actions.

(1) Each communication with GSA regarding additions, deletions, or changes to the Nonprocurement List shall be in writing.

(2) [Reserved]

(c) The agency shall direct inquiries concerning listed persons to the agency that took the action.

(d) Agency officials shall check the Nonprocurement List before entering covered transactions to determine whether a participant in a primary transaction is debarred, suspended, ineligible, or voluntarily excluded (Tel. #).

(e) Agency officials shall check the Nonprocurement List before approving principals or lower tier participants where agency approval of the principal or lower tier participant is required under the terms of the transaction, to determine whether such principals or participants are debarred, suspended, ineligible, or voluntarily excluded.

(f) USDA agencies shall provide the Office of Finance and Management (OFM) with a copy of any information provided to GSA pursuant to this section.

(g) USDA agencies shall notify GSA and OFM, in writing, of debarment or

7 CFR Ch. XXX (1–1–01 Edition)